

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

DAVID CODREA, OWEN MONROE, SCOTT
HEUMAN,
Plaintiffs-Appellants,

v.

MERRICK B. GARLAND, Attorney General,
BUREAU OF ALCOHOL, TOBACCO,
FIREARMS, AND EXPLOSIVES,
Defendants-Appellees.

No. 21-1707

JOINT RESPONSE TO COURT’S DECEMBER 6, 2023 ORDER

1. This Court’s December 6, 2023 order directed the parties to “inform this court how they believe this appeal should proceed” “[w]ithin fourteen days of the Supreme Court’s disposition of the merits in *Garland v. Cargill*...” The parties respectfully submit this filing to inform this Court that the Supreme Court issued its opinion in *Cargill* on June 14, 2024, holding that the Bureau of Alcohol, Tobacco, Firearms and Explosives “exceeded its statutory authority by issuing a Rule that classifies bump stocks as machineguns.” Op. 6. A copy of the Supreme Court’s opinion is attached.

2. This case is a challenge to the same ATF rule at issue in *Cargill*. In addition to substantive challenges to the Rule, plaintiffs brought a Fifth Amendment takings claim. The district court granted summary judgment to the government on all claims,

and plaintiffs appealed. This appeal has remained in abeyance pending the outcome of other litigation, including *Cargill*.

3. In light of the Supreme Court's decision in *Cargill*, the parties agree that the appropriate course is for this Court to vacate the existing judgment in the government's favor and remand to the district court. That course would permit the district court to enter a new judgment and appropriate relief on plaintiffs' substantive challenges to the ATF Rule at issue and would permit the parties and the district court to resolve remaining disputes related to plaintiffs' takings claim in the first instance.

Respectfully submitted,

/s/ Stephen D. Stamboulieh

Stephen D. Stamboulieh
Stamboulieh Law, PLLC
P.O. Box 428
Olive Branch, MS 38654
(601) 852-3440
stephen@sdslaw.us
MS Bar No. 102784

Alan Alexander Beck
Law Office of Alan Beck
2692 Harcourt Drive
San Diego, CA 92123
(619) 905-9105
Hawaii Bar No. 9145
Alan.alexander.beck@gmail.com

MARK B. STERN

/s/ Brad Hinshelwood

BRAD HINSHELWOOD

*Attorneys, Appellate Staff
Civil Division, Room 7256
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530
(202) 514-7823
bradley.a.hinshelwood@usdoj.gov*

JUNE 2024

CERTIFICATE OF SERVICE

I hereby certify that on June 27, 2024, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Federal Circuit by using the appellate CM/ECF system. I also hereby certify that the participants in the case are registered CM/ECF users, and service will be accomplished by the appellate CM/ECF system.

/s/ Brad Hinshelwood
Brad Hinshelwood